

2017 SENATE EDUCATION

SB 2220

# 2017 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

SB 2220  
1/25/2017  
Job Number 27359

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Landy Baumgartner*

## Explanation or reason for introduction of bill/resolution:

Relating to the authority to waive rescheduling of makeup days for weather-related school closures

## Minutes:

#1, #2, #3

**Chairman Schaible:** Committee come to order. Welcome Carrington Senior Class. Hope you enjoy yourselves. Open hearing for SB 2220.

**Janne Myrdal:** Senator from District 10. Introduce bill SB 2220. Testimony #1.  
Questions followed on clarification.

**Anita Thomas:** General Council of ND School Boards Association. Testimony #2. Request a "Do Not Pass". The required 5 storm days was built into the school calendars last session, where it used to be 2.

**Chairman Schaible:** Any other testimony? Any agency?

**Kristen Baesler:** Superintendent of NDDPI. Testimony #3. State pays districts for 175 school days' instruction. No storm days were waived by the governor in 2014-2015-2016. Applications have to be filed with Department of Public Instruction. Department of Public Instruction reviews the application and make sure they have met the letter of the application. We do not advise the governor.

**Chairman Schaible:** Close hearing on SB 2220.

# 2017 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

SB 2220  
1/30/2017  
Job Number 27560

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Sandy Baumgartner*

## Explanation or reason for introduction of bill/resolution:

Relating to the authority to waive rescheduling of makeup days for weather-related school closures

**Minutes:**

**Chairman Schaible:** Opened for discussion on SB 2220.

**Senator Rust:** I have experienced when students are out of the classroom for various other reasons, whether it is band, sports, or picture taken or whatever. I think if we give more leeway, more will be taken.

**Chairman Schaible:** Local wants flexibility, but they can apply for exemptions to Department of Public Instruction and the governor. Schools can build in more storm days if necessary. We would remove Department of Public Instruction out of it. I don't have a lot of sympathy for not being able to manage their time.  
Other discussion held.

**Senator Rust** moved for a Do Not Pass.

**Senator Oban** seconded

**Chairman Schaible:** Called for a roll call vote:

Taken 5 yeas, 0 nays, 1 absent

**Senator Schaible** will carry.

Date: 1-30-2017  
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2220

Senate Education Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rust Seconded By Oban

Senators	Yes	No	Senators	Yes	No
Chairman Schaible	✓		Senator Oban	✓	
Vice-Chairman Rust	✓				
Senator Davison	ab				
Senator Kannianen	✓				
Senator Vedaa	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Schaible

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2220: Education Committee (Sen. Schaible, Chairman)** recommends **DO NOT PASS**  
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2220 was placed on the  
Eleventh order on the calendar.

2017 TESTIMONY

SB 2220



SB 2220

Mr. Chairman and members of the Senate Education committee, I am Senator Janne Myrdal from District 10 which covers Cavalier, Pembina and Western Walsh counties. I am here today as the sponsor of SB2220

The intent of this bill, upon request of school officials and boards in my District is to give more local control over rescheduling of weather related make up days. As it stands today, it is a tedious process and a source of impracticality and irritation to school administrators and school boards alike, having to petition the Governor for "forgiveness" if make up of storm days are no longer possible. Weather related closures or catch up days are simple issues, yet more local discretion and decisions while still fulfilling requirements are needed.

SB 2220 accomplishes this simplification by removing the authority of the Governor to forgive days and returns it to local control where it belongs. As one superintendent simply put it: " After the good faith effort is made to use up all storm days, the elected school board should decide, rather than the governor, if days are to be forgiven. .... our local officials know our students, staff and weather situations much better than Governor reading it off a petition sheet."

This year has accentuated the need for a change in current law, given the many tough storms we have already faced. Our NE District often sees worse weather and storm related school closures and school officials in our area would appreciate more leeway in dealing with these issues locally rather than the way the process is now set up in our code.

I ask that your committee sincerely consider passage of SB2200.

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#2



NORTH DAKOTA  
SCHOOL BOARDS  
ASSOCIATION  

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I N C O R P O R A T E D

*Excellence in North Dakota public education through local school board governance*

**SB 2220 – TESTIMONY**

**L. Anita Thomas, J.D., LL.M.**

**General Counsel**

**North Dakota School Boards Association**

**January 25, 2017**

I've been involved in education law in North Dakota for more than a quarter of a century. This is my fourteenth legislative session and this particular section has been the subject of amendment or at least significant discussion during most if not all of those sessions.

The charge is to try and balance the statutorily mandated 175 days of instruction with the realities of winter weather and finding a way to determine what is truly "undue" hardship versus inconvenience.

Under current law, a board must include in its calendar a certain number of "snow days." That number reflects each district's five year rolling average of "snow days." To make certain that the "snow days" are available when they are most likely to be needed, the law provides that the "snow days" have to be built in beginning in January.

The expectation is that districts will reschedule days that had to be missed so that students receive the minimal 175 days. If there is undue hardship, which by the way is not defined, the Governor can be asked to waive the rescheduling in whole or in part.

This bill would allow a school or school district to determine when it has encountered an undue hardship and to literally waive its own days.

While this is the ultimate in local control, school districts are being funded not only by their own patrons, but by the people of North Dakota. The people of North Dakota have an expectation that if they are paying for 175 days of instruction, the students of the district should receive 175 days of instruction. Only in the most dire of circumstance, as determined by the Governor, should this obligation be waived.

We expect that other options will be put forward for the 2017 amendment of this section and we will give due consideration to those.

However, the proposal contained within this bill is not, from our perspective, a viable alternative to the current law. We therefore respectfully request that you give this bill a **DO NOT PASS**.



## LEGAL HISTORY

- Language in North Dakota Century Code (NDCC) §15.1-06-02 and §15.1-06-04.1 directs school districts to provide classes one hundred seventy-five days out of a year, and create a calendar that include days without classes on: three holidays selected by the local school board; two days for parent-teacher conferences; and two days for staff professional development. These days without classes are scheduled in addition to the declared federal and state holidays on which classes may not be scheduled; January 1<sup>st</sup>, Good Friday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day.
- NDCC §15.1-06-04.3, relating to dismissals due to weather states that "if because of weather a school must dismiss before completing a full day of instruction, the school is responsible for making up only those hours and portions of an hour between the time of early dismissal and the conclusion of a full day of classroom instruction.
- NDCC §15.1-27-23 requires that "the board of each school district shall include in their school calendar days that must be used for rescheduling instructional time lost due to severe weather or other emergency conditions." State law goes on to say, "If the number of days during which a public school or school district is closed or provides less than a full day of instruction exceeds the number of (storm makeup) days (scheduled in the calendar) ...the public school or school district shall make every effort to reschedule the (additional) remaining classes, so that students receive at least the number of full instructional days required by section 15.1-06-04 (175 days)..."

## FISCAL RESPONSIBILITY

- The reason that the policy of making up days dismissed due to weather is in place is to ensure that we maintain the state's responsibility for free and public access to elementary and secondary education.
- In addition to the desire and need we have to be educated – which is a worthy cause in itself – there is also an element of an obligation the state owes to the taxpayer to fulfill the full one hundred seventy-five days of instruction as required by law in NDCC §15.1-06-04.
- Legislators provided \$2.1 billion of taxpayers' money during the 2015 legislative session to ensure that our 107,000 public school students receive the education they are entitled to by the state constitution.
- This is in addition to the local taxpayer dollars collected by each school district. In other words, the taxpayers have made a substantial investment in education through their state and local school taxes.
- If the governor excuses a day on which schools were closed due to weather, then students lose the education they are entitled to receive, and taxpayers lose a service for which they have already paid their teachers and local school district employees.
- Analogy: It would be as if your dentist cancelled your appointment due to weather, but still kept the money he had billed you for the visit and didn't offer to see you at another time to provide the service for which you had already paid.
- Even though it was safer for you and your dentist to stay home and off the roads in bad weather you would still expect your dentist to provide services at a later time.

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#### FISCAL IMPACT

- Each school district receives on average \$11,000 per student to educate them. \$9,646 of that comes from the state. This comes out to about \$63 per student, per day; \$55 of that coming from the state.
- \$63 multiplied by the approximately 107,000 students, means state taxpayers pay over \$6.7 million every day to public schools for education.
- Put another way, the state taxpayer spends on average about \$233 per day per teacher, with about 10,800 teachers. This comes out to over \$2.5 million of taxpayer dollars per day in teacher salaries.
- If expected class time is forgiven missed due to weather, then this investment is lost by the taxpayers every school day where teaching and instruction do not occur.



**REQUEST FOR EMERGENCY DECLARATION  
STATE AID ELIGIBILITY  
STATE OF NORTH DAKOTA**  
SFN 51826 (01-017)

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RETURN TO:  
Department of Public Instruction  
Office of School Approval & Opportunity  
600 E Boulevard Avenue, Dept. 201  
Bismarck, ND 58505-0440  
Fax: (701) 328-0201

**This form is due in the Office of School Approval & Opportunity – May 1.**

North Dakota Century Code §15.1-27-23. Weather or other emergency conditions – Closure of Schools – State aid payments to school districts permits the Governor to grant a waiver in the event severe weather or other emergency conditions cause a school or school district to close or provide less than a full day of instruction. However, the school or school district must first make every effort to reschedule classes so students receive at least one hundred seventy-five full days of instruction. In order to apply for the waiver, the request must be submitted by May 1. This timeframe allows time for the State Superintendent to review the request to ensure accuracy and completeness of the application, forward applications that include all outlined criteria to the Governor to consider the request, and time for the district to make up the requested days in the event the request is denied by the Governor.

**Section I.**

*Please complete the district's contact information requested below. The Governor's Office will advise the school district and the Department of Public Instruction of its decision.*

LEA Name		County Number	LEA Number
Mailing Address	City	State	ZIP Code
Name of Contact Person	Position	Telephone Number	
E-Mail Address		Fax Number	
Signature		Date	

North Dakota Century Code § 15.1-06-04 School calendar – Length defines a full-day of instruction as at least five and one-half hours of instruction per day at the kindergarten and elementary level and at least six hours per day of instruction at the high school level. If a school's calendar provides for an extension of each school day beyond the statutorily required minimum number of hours by at least 30 minutes per day, the school is exempt from having to make up one full day of instruction time lost as a result of weather-related closure (grace day).

**Section II.**

*Please complete this form to indicate school days that were cancelled as a result of severe weather or other emergency conditions. In this section, please indicate the length of school day, summary of school closures due to weather or emergency conditions, rationale for undue hardship, and the district's best attempts to make up the requested waiver days.*

Length of school day in hours as reported on the fall calendar:			
_____ Kindergarten	_____ Elementary	_____ Junior High/Middle	_____ High School

Dates school was cancelled due to weather or emergency condition	Reason for cancellation (i.e. inclement weather, boiler failure, gas leak that could risk student safety, etc.)	Date cancellation was made up or indicate if requesting a waiver	For dates in which a waiver is requested, please provide reasoning for which the rescheduling of classes would create undue hardship to the district on the next page.



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Date of cancellation in which a waiver is requested	Reasoning for which the rescheduling of classes would create undue hardship to the district

Please describe what the district has done to make every effort to reschedule classes so students receive at least 175 instructional days.

Before the *Request for Emergency Declaration State Aid Eligibility* (SFN 51826) (a.k.a. storm forgiveness waiver) can be submitted and is eligible for review by the Governor's Office, the school district must:

1. Account for, and utilize, two or more weather related closure days as indicated in their STARS Fall School Calendar.
2. Exercise all options *and* make every attempt to ensure 175 full instructional days are provided to their students. The district must exhaust all eligible and potential instructional days remaining in the school calendar. **These dates may include non-mandated holidays (please reference NDCC § 15.1-06-02 – School Holidays), preplanned breaks, days between last day of school and scheduled high school graduation, or extension of school day beyond the regularly scheduled calendar day.**
3. Submit a *School Calendar Amendment Request* in the form of a memo or letter to the North Dakota Department of Public Instruction demonstrating the district has made every attempt to ensure 175 full instructional days are provided to their students. The *School Calendar Amendment Request* must show the district's plan for exhausting all eligible and potential instructional days remaining in the school calendar. **These dates may include non-mandated holidays (please reference NDCC § 15.1-06-02 – School Holidays), preplanned breaks, days between last day of school and scheduled high school graduation, or extension of school day beyond the regularly scheduled calendar day.**
4. A district's undue hardship rationale and *Request for Emergency Declaration State Aid Eligibility* (SFN 51826) will only be considered after the school district has exercised all options outlined in their *School Calendar Amendment Request*.

**DAYS FORGIVEN BY THE GOVERNOR**  
**2008-2009**

Total full days waived for weather related closings 315

Total full days waived for flooding issues 115

Total full days waived for other reasons

(water main break, safety related issue) 4

108 districts



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## DAYS FORGIVEN BY THE GOVERNOR 2009-2010

School Name	Days Requested	Reason	Days Forgiven
Elgin /New Leipzig	1	Winter storm-power outages	1
Standing Rock Community Elem School	2	Severe weather	2
Standing Rock Community High School	2	Severe weather	2
Standing Rock Elem School	3	School relocation due to unsafe conditions	3
Standing Rock Community High School	3	School relocation due to unsafe conditions	3
Flasher Public School	1	Power outage from winter storm	3
Carson Public School	1	Winter storm-power outages	1
Selfridge Public School	1	Winter storm /power outage	1
St Bernard's Mission School, Ft Yates	2	Winter storm/power outages	2
Bakker Elementary School, Hague	2	Winter storm/power outage	2
10 Requests	20 Days requested	Weather related issues	20 Days Granted

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## 2010-2011 STORM WAIVER REQUESTS

Waivers submitted for one day or more of instructional time. All requests were granted by the Governor.		Requests reviewed by DPI and not sent to Governor's office
Mandaree Public School	3 days	Hebron Public
St Joseph Elem- Williston	1 day	Glen Ullin Public
Lidgerwood Public	2 days	Nedrose Elementary- Minot
Grenora Public	1 day	Central Valley- Buxton
New 8 - Williston	5 days	Robinson Elementary
Eight Mile- Trenton	3 days	Selfridge Public
Williston Public	2 days	New Salem-Almont Public
Warwick Public	2 days	Twin Buttes- Halliday
White Shield	2 days	
Crosby- Divide County	1 day	
Surry Public	2 days	
Medina Public	1 day	
Max Public School	1 day	
Kidder County - Steele	1 day	
Glenburn Public	1 day	
Gackle-Streeter	1 day	
16 Districts	29 days	

Note: There was a late snow storm May 2 and 3 that left much of the northwest part of the state without electricity.

Requests reviewed by DPI and not submitted to the Governor's office had time on their calendars to make up time sufficiently.

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### 2011-2012 STORM WAIVER REQUESTS

Mandaree Public School	1 day	Water and sewer line problems
Minot Public Schools	5 days	Flood Damage prevented school opening on schedule
2 districts	6 days	

Requests were granted by the Governor.

# 2012-2013 STORM WAIVER REQUESTS

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Waivers submitted for one day or more of instructional time- all waivers were granted by the Governor		Requests /Inquiries reviewed by DPI and not sent to Governor's office
Bottineau	1 day	Alexander
Casselton	1 day	Belcourt
Cavalier	1 day	Bismarck
Cooperstown	1 day	Devils Lake (St. Joseph School)
Colfax	1 day	Fargo
Emerado	1 day	Forman (Sargent Central)
Enderlin	1 day	Garrison
Fairmount	1 day	Hague (Bakker School)
Flasher	1 day	Halliday
Fordville-Lankin	1 day	Lisbon
Fort Totten	1 day	Montpelier
Fort Yates	1 day	Oberon
Gackle-Streeter	1 day	North Border- Pembina
Gwinner (North Sargent)	1 day	Pingree-Buchanan
Hankinson	1 day	Richardton-Taylor
Hope	1 day	Selfridge
Hunter (Northern Cass)	1 day	Starkweather
Jamestown	1 day	Watford City Johnson Corners
Kindred	1 day	Westhope
Lakota	1 day	
LaMoure	2 days	
Leeds	1 day	
Litchville-Marion	1 day	
Max	1 day	
Medina	1 day	
Minnewauken	1 day	
New England	1 day + 4 hrs	
Page	1 day	
Petersburg (Dakota Prairie)	1 day	
Robinson	1 day	
Roseglen (White Shield) #1 Weather		
Roseglen (White Shield) #2 Funeral		
Rugby	1 day	
Barnes County North	1 day	
St. John	2 days	
Surrey	1 day	
Tower City (Maple Valley)	1 day	
Towner	1 day	
Trenton (Eight Mile)	2 days	
Turtle Lake-Mercer	1 day	
Valley City	1 day	
Velva	1 day	
Warwick	1 day	
Wishek	1 day	

43 districts

47 days  
1 partial day



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## 2013-2014 Weather Related Storm Waiver Requests

Note: All requests for a waiver of instructional time were granted by the Governor's office.

School District	Total Days Missed	Days Made Up	Used the Grace Day	Days Granted a Waiver
Barnes County North	5	3	1	1
Belcourt	4	2	1	1
Cavalier	6	3	1	2
Central Cass (Casselton)	5	3	1	1
Flasher	2	0	1	1
Dunseith	4 hrs	0	0	4 hrs
Dakota Prairie (Petersburg)	5 + 3 hrs	3	1	1 plus 3 hours
Fordville-Lankin	4 + 8 hrs	3	1	1 + 2 hours
Grafton	4	2	1	1
Grand Forks	6	3	1	2
Griggs County Central (Cooperstown)	4	2	1	1
Hillsboro	4 + 2 hrs	3	1	2 hours
Kidder County (Steele)	3	0	1	2
Lakota	4	3	0	1
Mandaree	5	2	0	3
Manvel	4	2	1	1
Max	2 + 3.5 hrs	3	0	3.5 hours
New Rockford-Sheyenne	3	2	0	1
North Border (Walhalla)	5 + 4 hrs	3	1	1
Northern Cass (Hunter)	5	4	0	1
Thompson	4	3	0	1
Twin Buttes (Halliday)	5	4	1	0
West Fargo	3	2	0	1
Wilton	2 + 3 hrs	1	1	1

24 districts

25 full days  
5 partial days

Grace Day is a day that is earned if the school's calendar provides for an extension of each school day beyond the statutorily required minimum number of hours. The minimum day of instruction for elementary is 5.5 hours and 6 hours for secondary. If the total amount of extended time amounts to at least 84 hours for the duration of the school year, the school is exempt from having to make up 6 hours of instructional time. NDCC 15.1-04-04 8a.

Waiver NDCC 15.1-27-23 Weather or other emergency conditions, closure of schools. Request form SFN51826 completed by a school district must be received by May 1<sup>st</sup> for review by DPI and forwarded to the Governor's office. Waivers only apply to public school districts.